

*DEFENSIVE CWA/APA LITIGATION*

**Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

12. *Anacostia Riverkeeper et v. EPA* Civil Action No. 16-1861 (JDB) (District Court Vacated EPA's Approval of Trash TMDL for the Anacostia River on March 30, 2018) – **Unfavorable decision issued in April 2018.** No final judgment issued, but court has so far ordered two status reports.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

### Anacostia Trash TMDL

*Issue:* In March 2018, district court vacated EPA's approval of a TMDL for trash in the Anacostia River submitted jointly by DOEE and MDE because the TMDL was framed in terms of a removal or reduction of trash (removal of 105% of the estimated baseline load) rather than as a positive load. District court stayed vacatur and directed EPA to either disapprove the TMDL (and establish its own within 30 days per the statute) or work with MDE and DOEE on a replacement TMDL. EPA is working with MDE and DOEE on a replacement TMDL. We are seeking public input on TMDL endpoint selection. We also provide status reports to the court every 6 months.

### **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**